

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF TEXAS and GREG  
ABBOTT, in his official capacity as Governor  
of the State of Texas,

Defendants.

Civ. A. No. 3:21-cv-173

**DECLARATION OF DAVID SHAHOULIAN**

I, David Shahoulian, pursuant to 28 U.S.C. § 1746 and based upon my personal knowledge, as well as documents and information made known or available to me from official records and reasonably relied upon by me in the course of my employment, hereby declare as follows:

1. I am the Assistant Secretary for Border and Immigration Policy at the Department of Homeland Security (DHS or Department) and have been in this role since January 20, 2021. I previously served as Deputy General Counsel at DHS from June 29, 2014 to January 19, 2017.

2. I submit this declaration to address Defendants' assertion that the federal government is simply releasing detained noncitizens from federal custody without testing and other consequent management protocols in place.

3. Contrary to the Defendant's claims, the Department has taken extraordinary steps to develop systems to facilitate testing, isolation, and quarantine of those individuals encountered at the border who are not immediately returned to their home countries pursuant to the Centers for

Disease Control and Prevention's (CDC) Order Suspending the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists ["CDC Order"], (Aug. 2, 2021) (replacing and updating the October 16, 2020 Order).

4. The large majority of single adults encountered between ports of entry are promptly expelled pursuant to the CDC Order. Those who are not expelled are generally transferred to U.S. Immigration and Custom Enforcement (ICE) custody. For such individuals, COVID-19 testing occurs upon intake into an ICE facility. Those who test positive for, or who have been exposed to, COVID-19 are cohorted to reduce the possibility of transmission.

5. Noncitizen family units encountered between ports of entry are either transferred to ICE-run or ICE-contracted facilities or released directly from CBP facilities. Those transferred to ICE custody are, like single adults transferred to ICE custody, tested upon intake and separated according to test result. Those released directly from CBP facilities are generally provided testing either prior to or immediately after release from CBP custody. This testing is conducted by a variety of partners, including state and local governments, non-governmental organizations (NGOs), and third-party contractors. For any of these family members who test positive for COVID-19 immediately after release, DHS has coordinated with appropriate state, local, and NGO partners for the provision of accommodations so that the family members can properly isolate and/or quarantine consistent with public health protocols. In the Del Rio sector,<sup>1</sup> the Department set up a system for testing and non-congregate sheltering involving third-party contractors and ICE-run or ICE-contracted facilities. Those who test negative are released from custody, and those who test positive are transferred to ICE custody where they are subject to quarantine and isolation.

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<sup>1</sup> The Del Rio Sector covers a 245-mile stretch of the U.S.-Mexico border along the Rio Grande River and Lake Amistad.

Due to infrastructure and resource limitations, it is not feasible to replicate this latter system across the border.

6. Unaccompanied children (UCs) who are encountered at the border are transported to the Department of Health and Human Services, which facilitates their testing for COVID-19. UCs are released only after having undergone testing, quarantine and/or isolation, if required, and vaccination when possible.

Executed on August 3, 2021.

*David Shahoulian*

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David Shahoulian

Assistant Secretary for Border and Immigration Policy

U.S. Department for Homeland Security